

Montana Water Court
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FILED
01/17/2023
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
39E-0105-R-2022
Block, Nathaniel
5.00

IN THE WATER COURT OF THE STATE OF MONTANA
YELLOWSTONE DIVISION
BOX ELDER CREEK BASIN (39E)
PRELIMINARY DECREE

* * * * *

CLAIMANT: Travis J. Walker

CASE 39E-0105-R-2022

39E 174174-00
39E 174175-00
39E 174176-00
39E 174177-00
39E 176634-00
39E 176635-00
39E 176637-00
39E 30133829
Implied Claim:
39E 30155789

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

FINDINGS OF FACT

1. The above-captioned claims appeared in the Preliminary Decree for Box Elder Creek (Basin 39E) with issue remarks.

2. On March 17, 2022, the above-captioned claims were consolidated into Water Court Case 39E-0105-R-2022, and the claimant was ordered to work with the Department of Natural Resources and Conservation (DNRC) to resolve the issue remarks on the claims.

3. On July 29, 2022, the DNRC filed a Memorandum detailing several proposed modifications to the claims that would resolve certain issue remarks. Included with the Memo were Motions to Amend for claims 39E 174174-00, 39E 174175-00 and 39E 30133829.

4. The Memo stated that the DNRC was able to locate the claimed points of diversion and confirm that the means of diversion for claim 39E 174174-00 is a pump. The Memo further stated that point of diversion ID #5 should be modified to the SWSWNE of S8, T1S, R60E. Pursuant to the Memo and the Motion to Amend, the legal land description for point of diversion ID #5 should be modified as discussed above and that all means of diversion should be modified to 'pump'.

5. The Memo recommended that claim 39E 174175-00 be modified as follows:

Flow Rate: **1.84 cfs**

Primarily a direct flow system; flow rate retained

Volume: **The total volume of this right shall not exceed the amount put to historical and beneficial use.**

Primarily a direct flow system; volume not decreed

6. Pursuant to the Memo and the Motion to Amend, claim 39E 174175-00 should be modified as discussed above.

7. A Request to Withdraw Statement of Claim 39E 174177-00 was included with the Memo. The Request stated 'not enough water to pump'. The Memo recommended that the claim be dismissed pursuant to the Request.

8. Claim 39E 30133829 received an issue remark that stated that "[t]his claim

appears to be claiming two separate sources of water. More than one water right may be involved.” The claim claimed two different named sources of water, Boxelder Creek and Lampkin Gulch. The Memo recommended that points of diversion and places of use #8 & 9 be removed from the claim, that Lampkin Gulch be removed as a source, and an implied claim be generated for points of diversion and places of use #8 & 9. A Motion to Amend was included with the Memo requesting that points of diversion and places of use #8 & 9 and Lampkin Gulch be removed from claim 39E 30133829.

9. Pursuant to the Memo, an implied claim with the same elements as 39E 30133829 except for point of diversion, place of use and source should be generated. The source, point of diversion and place of use should be as follows:

Source: Lampkin Gulch

Points of Diversion and Places of Use:

ID	Qtr	Sec	Sec	Twp	Rge	County
1	NENENE	9	1S	60E	Carter	
2	NW	10	1S	60E	Carter	

10. The Memo states that if an implied claim is generated, “the Claimant will need to pay the \$130 claim filing fee to DNRC”. Claimant should object to this Master’s Report if they disagree with the generation of the implied claim, otherwise Claimant should submit payment to the DNRC pursuant to the Memo.

PRINCIPLES OF LAW

1. The Montana Water Court has the authority to determine the extent of all water rights in the state as they existed prior to July 1, 1973. *Fellows v. Saylor*, 2016 MT 45, ¶ 25, 382 Mont. 298, 367 P.3d 732; §§ 85-2-233, -102(12), MCA.

2. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. § 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R.

3. Where a claimant agrees to reduce or limit an element of a claim, “the water court does not need to determine whether the burden of proof has been met.” Rule 17(c), W.R.Adj.R. The Court may accept the requested reduction or limitation “without further presentation of evidence.” Rule 17(c), W.R.Adj.R.

4. Under Section 3-7-224, MCA the Water Court is directed to conduct hearings in the same manner as for other civil actions. The Water Court applies the Montana Rules of Civil Procedure (M.R.Civ.P.), the Montana Rules of Evidence (M.R.Evid.) and the Montana Uniform District Court Rules. This Master considers stipulations filed with the Court as “other paper” under M.R.Civ.P. Rule 11(b)(3) which certifies that to the best of the parties knowledge the factual contentions contained within the stipulation are supported by evidence. Add to this rule the recognition that “the heart of a judicial process is the development of the truth through conflict between parties with adverse interests.” *United States of America (USDI) –Bureau of Indian Affairs)-General Objection to Basin 42B and 42C Preliminary Decrees*, Case 42B-1, ¶ 3 at p. 14, (*Order Denying Motion* June 27, 2014). Considering these tenets, significant weight is given to the stipulation itself to establish the accurate historical use of the claim.

CONCLUSIONS OF LAW

1. Claim 39E 174177-00 should be dismissed. The remaining claims should be modified, and an implied claim generated as discussed above. Modification of the claims resolves the issue remarks discussed above.

2. The remaining issue remarks are notice type remarks that have served their purpose and should be removed from the claims.

3. The generation of an implied claim is intended to address situations where a single statement of claim appears to contain more than one separate water right. Order Amending and Adopting Masters Report at 4, *Eliasson Ranch Company v. Rodegheiro*, Water Court Case 40A-115 (June 28, 2004) (hereinafter 40A-115 Order). In that regard, the purpose of generating an implied claim is to “separate two or more water rights into separate claims so that they are accurately identified for adjudication and administration.” *Id.* at 5. Ordinarily, the DNRC requests Water Court authorization for an implied claim

pursuant to Rule 6.IV of the Water Right Claim Examination Rules. *Id.* at 4. Although this rule applies to claims being examined prior to the issuance of a preliminary decree, the Water Court has routinely cited the rule when generating implied claims post-preliminary decree. *Id.*

4. When determining whether to grant an implied claim, the Court generally relies on the statement of claim and any material in the claim file that helps to clarify that information. 40A-115 Order at 4. As previously recognized by the Court, “[t]he most common indicator for an implied claim is an overstatement of some element of the claim on a single statement of claim form, such as: listing points of diversion on two or more sources[.]” *Id.* at 4-5.

5. An implied claim should be generated from claim 39E 30133829 with the modifications discussed above. The implied claim should possess the same elements as 39E 30133829, except as discussed in Finding of Fact #9.

RECOMMENDATION

1. Upon review the record in this case, the above-captioned claims should be modified as discussed above. The issue remarks should be removed from the claims.

Post Decree Abstracts of Water Right Claims are attached to this Master’s Report for review.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Travis J. Walker
PO Box 244
Ekalaka, MT 59324

Note: Caption Updated 1-17-2023

\\JUDGALH2OSRV\Data\vol\Share\WC-BASIN FOLDERS\39E PD\Cases\105\NB 39E-0105-R-2022 MR - Resolution of IRs 248 (multiple claims, M2A, means of diversion, POU, implied) 1-17-2023 bw.docx

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOXELDER CREEK
BASIN 39E

Water Right Number: 39E 174174-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: TRAVIS J WALKER
PO BOX 244
EKALAKA, MT 59324

OWNERSHIP UPDATE PROCESSED TO ADD NEW OWNERS. THE WATER RIGHT MAY BE SPLIT INTO SEPARATE WATER RIGHTS UPON REQUEST OF THE OWNERS.

Priority Date: JULY 28, 1951

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 5.50 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 2 - MODERATELY HIGH

Maximum Acres: 400.00

Source Name: BOXELDER CREEK

Source Type: SURFACE WATER

SPRING HYDROLOGICALLY RELATED TO SOURCE.

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESWNE	4	1S	60E	CARTER
Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	PUMP					
2		NESESW	8	1S	60E	CARTER
Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	PUMP					
3		SWSWSE	8	1S	60E	CARTER
Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	PUMP					
4		SESWSE	8	1S	60E	CARTER
Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	PUMP					
5		SWSWNE	8	1S	60E	CARTER
Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	PUMP					
6		NENESE	8	1S	60E	CARTER

Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	PUMP					
7	SESENE	8	1S	60E	CARTER	
Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	PUMP					
8	SENWNW	9	1S	60E	CARTER	
Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	PUMP					
9	SWNENW	9	1S	60E	CARTER	
Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	PUMP					
10	NESWSW	4	1S	60E	CARTER	
Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	PUMP					
11	SWSESW	4	1S	60E	CARTER	
Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	PUMP					
12	NESESW	4	1S	60E	CARTER	
Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	PUMP					
Period of Use:	MARCH 1 TO NOVEMBER 1					

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	160.00		E2	8	1S	60E	CARTER
2	23.00		W2W2SW	9	1S	60E	CARTER
3	140.00			4	1S	60E	CARTER
4	67.00		NW	9	1S	60E	CARTER
5	10.00		W2W2NE	9	1S	60E	CARTER
Total:	400.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

174174-00

174175-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOXELDER CREEK
BASIN 39E**

Water Right Number: 39E 174175-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: TRAVIS J WALKER
PO BOX 244
EKALAKA, MT 59324

Priority Date: FEBRUARY 27, 1943

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: SPRINKLER/FLOOD

Flow Rate: 1.84 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT
TO HISTORICAL AND BENEFICIAL USE.
PRIMARILY A DIRECT FLOW SYSTEM; VOLUME NOT DECREED.

Climatic Area: 2 - MODERATELY HIGH

Maximum Acres: 100.00

Source Name: UNNAMED TRIBUTARY OF BOXELDER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSE	4	1S	60E	CARTER

Period of Diversion: FEBRUARY 15 TO NOVEMBER 15

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWSE	4	1S	60E	CARTER

Diversion to Reservoir: DIVERSION # 1

Dam Height: 10.00 FEET

Depth: 7.00 FEET

Surface Area: 7.80 ACRES

Capacity: 21.84 ACRE-Feet

THE DAM EXTENDS INTO THE NESWNW , SWNENW SEC 04 TWP 1S RGE 60E
CARTER COUNTY.

Period of Use: FEBRUARY 15 TO NOVEMBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	4.00		N2SENW	4	1S	60E	CARTER
2	4.00		W2NWSW	3	1S	60E	CARTER

3	12.00		NESE	4	1S	60E	CARTER
4	6.00		W2SW	3	1S	60E	CARTER
5	15.00	6	NW	4	1S	60E	CARTER
6	9.00	7	NE	4	1S	60E	CARTER
7	50.00		S2NE	4	1S	60E	CARTER
Total:							
	100.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

174174-00

174175-00

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOXELDER CREEK
BASIN 39E**

Water Right Number: 39E 174176-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: TRAVIS J WALKER
PO BOX 244
EKALAKA, MT 59324

Priority Date: DECEMBER 31, 1936

Type of Historical Right: USE

Purpose (use): IRRIGATION

Irrigation Type: WATER SPREADING

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF DIRECT FLOW WATER SPREADING.

Volume: 240.00 AC-FT

Climatic Area: 2 - MODERATELY HIGH

Maximum Acres: 120.00

Source Name: UNNAMED TRIBUTARY OF BOXELDER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	5	NW	5	1S	60E	CARTER

Period of Diversion: FEBRUARY 15 TO NOVEMBER 15

Diversion Means: DAM

2	6	NE	5	1S	60E	CARTER
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Period of Diversion: FEBRUARY 15 TO NOVEMBER 15

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
6	NE	5	1S	60E	CARTER

Diversion to Reservoir: DIVERSION # 1

Dam Height: 11.00 FEET

Depth: 8.00 FEET

Surface Area: 24.30 ACRES

Capacity: 77.76 ACRE-FEET

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
5	NW	5	1S	60E	CARTER

Diversion to Reservoir: DIVERSION # 1

Dam Height: 11.00 FEET

Depth: 8.00 FEET

Surface Area: 11.90 ACRES

Capacity: 38.08 ACRE-FEET

Period of Use: FEBRUARY 15 TO NOVEMBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	120.00		E2	5	1S	60E	CARTER
Total:	120.00						

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOXELDER CREEK
BASIN 39E

Water Right Number: 39E 174177-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: DISMISSED

Owners: TRAVIS J WALKER
PO BOX 244
EKALAKA, MT 59324

Priority Date:

Type of Historical Right:

Purpose (use): IRRIGATION

Flow Rate:

Volume:

Source Name: UNNAMED TRIBUTARY OF BOXELDER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOXELDER CREEK
BASIN 39E

Water Right Number: 39E 176634-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: TRAVIS J WALKER
PO BOX 244
EKALAKA, MT 59324

Priority Date: FEBRUARY 28, 1943

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF BOXELDER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	5	NW	5	1S	60E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NW	5	1S	60E	CARTER

Diversion to Reservoir: DIVERSION # 1

Dam Height: 11.00 FEET

Depth: 8.00 FEET

Surface Area: 11.53 ACRES

Capacity: 36.90 ACRE-FEET

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		5	NW	5	1S	60E	CARTER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOXELDER CREEK
BASIN 39E

Water Right Number: 39E 176635-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: TRAVIS J WALKER
PO BOX 244
EKALAKA, MT 59324

Priority Date: DECEMBER 31, 1943

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF BOXELDER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSENW	4	1S	60E	CARTER

Period of Diversion: FEBRUARY 15 TO NOVEMBER 15

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NWSENW	4	1S	60E	CARTER

Diversion to Reservoir: DIVERSION # 1

Dam Height: 11.00 FEET

Depth: 8.00 FEET

Surface Area: 11.80 ACRES

Capacity: 37.76 ACRE-FEET

THE DAM EXTENDS INTO THE NWSWNW , SWNENW SEC 04 TWP 1S RGE 60E CARTER COUNTY.

Period of Use: FEBRUARY 15 TO NOVEMBER 15

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			N2SWNW	4	1S	60E	CARTER
2		5	NW	4	1S	60E	CARTER
3			NESENE	5	1S	60E	CARTER
4		8	NE	5	1S	60E	CARTER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOXELDER CREEK
BASIN 39E

Water Right Number: 39E 176637-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: TRAVIS J WALKER
PO BOX 244
EKALAKA, MT 59324

Priority Date: FEBRUARY 28, 1943

Type of Historical Right: FILED

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: UNNAMED TRIBUTARY OF BOXELDER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	7	NE	5	1S	60E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: DAM

Reservoir: ONSTREAM

<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
	NE	5	1S	60E	CARTER

Diversion to Reservoir: DIVERSION # 1

Dam Height: 13.00 FEET

Depth: 10.00 FEET

Surface Area: 25.00 ACRES

Capacity: 25.00 ACRE-FEET

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		7	NE	5	1S	60E	CARTER
2		6	NW	5	1S	60E	CARTER
3		5	NW	5	1S	60E	CARTER
4		3	NW	5	1S	60E	CARTER

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOXELDER CREEK
BASIN 39E

Water Right Number: 39E 30133829 STATEMENT OF CLAIM

Version: 2 -- POST DECREE

Status: ACTIVE

Owners: TRAVIS J WALKER
PO BOX 244
EKALAKA, MT 59324

Priority Date: NOVEMBER 6, 1918

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: BOXELDER CREEK

Source Type: SURFACE WATER

Source Name: UNNAMED TRIBUTARY OF BOXELDER CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		W2SE	8	1S	60E	CARTER

Source Name: BOXELDER CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		E2SW	8	1S	60E	CARTER
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Source Name: BOXELDER CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		N2NESE	8	1S	60E	CARTER
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Source Name: BOXELDER CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

4		S2SWNE	8	1S	60E	CARTER
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Source Name: BOXELDER CREEK

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

5	SENE	8	1S	60E	CARTER
Source Name: BOXELDER CREEK					
Period of Diversion: JANUARY 1 TO DECEMBER 31					
Diversion Means: LIVESTOCK DIRECT FROM SOURCE					
6	SWNW	9	1S	60E	CARTER
Source Name: BOXELDER CREEK					
Period of Diversion: JANUARY 1 TO DECEMBER 31					
Diversion Means: LIVESTOCK DIRECT FROM SOURCE					
7	N2NW	9	1S	60E	CARTER
Source Name: BOXELDER CREEK					
Period of Diversion: JANUARY 1 TO DECEMBER 31					
Diversion Means: LIVESTOCK DIRECT FROM SOURCE					
8	SENE	5	1S	60E	CARTER
Source Name: UNNAMED TRIBUTARY OF BOXELDER CREEK					
Period of Diversion: JANUARY 1 TO DECEMBER 31					
Diversion Means: LIVESTOCK DIRECT FROM SOURCE					
9	NWSW	3	1S	60E	CARTER
Source Name: BOXELDER CREEK					
Period of Diversion: JANUARY 1 TO DECEMBER 31					
Diversion Means: LIVESTOCK DIRECT FROM SOURCE					
10	S2	4	1S	60E	CARTER
Source Name: BOXELDER CREEK					
Period of Diversion: JANUARY 1 TO DECEMBER 31					
Diversion Means: LIVESTOCK DIRECT FROM SOURCE					
11	S2NW	4	1S	60E	CARTER
Source Name: UNNAMED TRIBUTARY OF BOXELDER CREEK					
Period of Diversion: JANUARY 1 TO DECEMBER 31					
Diversion Means: LIVESTOCK DIRECT FROM SOURCE					
Period of Use: JANUARY 1 TO DECEMBER 31					

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			W2SE	8	1S	60E	CARTER
2			E2SW	8	1S	60E	CARTER
3			N2NESE	8	1S	60E	CARTER
4			S2SWNE	8	1S	60E	CARTER
5			SENE	8	1S	60E	CARTER
6			SWNW	9	1S	60E	CARTER
7			N2NW	9	1S	60E	CARTER
8			SENE	5	1S	60E	CARTER
9			NWSW	3	1S	60E	CARTER
10			S2	4	1S	60E	CARTER
11			S2NW	4	1S	60E	CARTER

Remarks:

IMPLIED CLAIM NO. 39E 30155789 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
BOXELDER CREEK
BASIN 39E

Water Right Number: 39E 30155789 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: TRAVIS J WALKER
PO BOX 244
EKALAKA, MT 59324

Priority Date: NOVEMBER 6, 1918

Type of Historical Right: USE

Purpose (use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS WATER RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: LAMPKIN GULCH

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENENE	9	1S	60E	CARTER

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		NW	10	1S	60E	CARTER
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			NENENE	9	1S	60E	CARTER
2			NW	10	1S	60E	CARTER

Remarks:

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 39E 30133829.